

# DISCRIMINATION, HARASSMENT AND BULLYING COMPLAINTS RESOLUTION

## Policy

Function	People & Culture Team	Approved By	
Reviewed by	People & Culture	Approved date	
Responsible Officer	People & Culture Manager	Last reviewed	

### Purpose

Plan Australia is committed to equality and providing a workplace free of discrimination, harassment, sexual harassment, bullying and victimisation. This commitment includes actively promoting policy and procedure and monitoring the workplace on a regular basis with the aim of preventing the occurrence of discrimination, harassment, bullying and victimisation in the workplace.

Plan Australia recognises and values the difference between its employees and the various skills and perspectives that these differences contribute to our workplace. Behaviour that is discriminatory, harassing or bullying, whether displayed by an employee, manager, supervisor or contractor, will not be tolerated.

The aim of this policy is to ensure employees, contractors, temporary staff / hire employees, volunteers and work experience personnel of Plan Australia have a clear understanding of the Company expectation pertaining to acceptable and appropriate behaviour within the workplace. The workplace also pertains to work conducted offsite and activities at a work related social event.

### Scope

This policy applies to all Plan Australia employees, contractors, volunteers, Board Members, and work experience personnel.

### Procedures Title

Discrimination, Harassment and Bullying Complaints Resolution Procedure

### Policy Status

Updated 01/07/13

### Legislation

Plan Australia must meet all legislative requirements of Victorian and Federal legislation including but not limited to the following:

#### Federal Jurisdiction

- *Australian Human Rights Commission Act 1986*
- *Sex Discrimination Act 1984*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Equal Opportunity for Women in the Workplace Act 1999*
- *Fair Work Act 2009*
- *Age Discrimination Act 2004*

#### Victorian State Jurisdiction

- *Victorian Equal Opportunity Act 2010*
- *Racial and Religious Tolerance Act 2001*
- *Occupational Health & Safety Act 2004*
- *Accident Compensation Act 1985*
- *The Victorian Charter of Human Rights and Responsibilities 2006*

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### Responsibilities of Managers

It is the primary responsibility of management and other employees in a position of authority to establish monitor and proactively maintain a working environment free from discrimination, harassment and bullying. Responsible personnel must also model appropriate behaviour and monitor the workplace in which their employees (including contractors) perform their role to ensure that acceptable standards of conduct are observed at all times.

### Responsibilities of Managers and Employees

It is the primary responsibility of employees to behave in a professional manner, treat each other with respect and dignity and support the organisation to maintain a safe work environment for all employees at all times.

### Contact Officers

The role of the Contact Officer is to provide confidential, general information and support to any employee including matters relating to discrimination, harassment and bullying. The Contact Officer can help employees identify the issues in their situation, the outcome they want and the options available to achieve these. Contact Officers do not provide legal advice, nor judge what is or is not discrimination bullying or harassment, instead they provide general information that will help the employee decide how to handle their own situation.

Names of contact officers are shown on the Internal Phone List.

### Reporting / Treatment of Complaints

Management will treat all concerns and complaints quickly, fairly and seriously. Treatment of complaints or reports will be undertaken in line with the *Discrimination, Harassment and Bullying Complaint Resolution Procedure*. This document also outlines the process in which employees may raise issues of concern. Employees will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint.

No employee will be penalised or disadvantaged as a result of raising legitimate concerns or complaints relating to discrimination, harassment or bullying. Where a complaint is substantiated it may result in disciplinary action up to and including termination of employment. If unsubstantiated or found to be vexatious it may also result in disciplinary action against the complainant.

### Discrimination

Unlawful discrimination occurs when a person treats or proposes to treat another person less favourably owing to a protected attribute listed below. This is known as direct discrimination.

Unlawful discrimination also occurs when there is a requirement or condition or practice which has the intention of treating everyone the same ends up disadvantaging, or potentially disadvantaging a person with one or more of the protected attributes listed below. This is known as indirect discrimination.

Protected attributes in Victoria include:

- Age;
- Disability/impairment;
- Industrial activity/inactivity;
- Lawful sexual activity;
- Sexual orientation or preference;
- Gender identity;
- Marital status, including de facto;
- Political belief or activity;
- Pregnancy;
- Breastfeeding;

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- Race includes colour descent or national or ethnic origin;
- Religious belief or activity;
- Sex;
- Status as a parent or carer;
- Personal association with someone who has one or more of the above attributes;
- Irrelevant criminal conviction (one that does not relate to an inherent requirement of the role).

Workplace discrimination can occur in:

- recruiting and selecting staff;
- terms, conditions and benefits offered as part of employment;
- who receives training and what sort of training is offered;
- who is considered and selected for transfer, promotion, retrenchment or dismissal.

It is important to note that from a legal perspective it is irrelevant whether or not the discrimination was intended.

### Harassment

A person unlawfully harasses another person if he or she makes that other person (another employee or member of the public) feel offended, humiliated or intimidated because of one of the protected attributes listed above. It may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence.

It is important to note that from a legal perspective it is irrelevant whether or not the harassing behaviour was intended.

Unlawful harassment may have occurred if the behaviour makes the victim feel:

- offended and humiliated; and/or;
- intimidated or frightened.

Unlawful harassment can include behaviour such as:

- telling insulting jokes about particular racial groups;
- sending explicit or sexually suggestive emails;
- displaying offensive or pornographic posters or screen savers;
- making derogatory comments or taunts about an individual's race or religion;
- asking intrusive questions about someone's personal life, including their sex life.

### Sexual Harassment

Sexual harassment occurs when a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours to another person, or engages in any other unwelcome conduct of a sexual nature in relation to another person. Sexual harassment has nothing to do with mutual attraction or consenting friendships, whether sexual or otherwise.

Sexual harassment is unlawful in pre-employment activities and in the workplace. The workplace includes any place a person goes for the purpose of carrying out any function in relation to his/her employment and can also extend to social functions.

Some examples of sexual harassment include:

- Persistent, unwelcome demands or even subtle pressures for sexual favours or outings;
- Staring or leering at a person or at parts of their body;
- Unwelcome patting, pinching, touching or unnecessary familiarity, such as unnecessarily brushing up against a person;
- Offensive comments or questions about a person's physical appearance, dress or private life;

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- Sexually explicit pictures or posters or screen savers (words and images);
- Sexually explicit telephone calls, letters, faxes, emails or voice mail messages;
- Humour such as smutty or suggestive jokes or comments;
- Innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality, or tales of sexual performance;
- Requests for sex;
- Insults or taunts based on sex;
- Sexually explicit physical contact.

Some types of sexual harassment may also constitute offences under the criminal law.

## Bullying

Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety.

"Unreasonable behaviour" means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the other person.

"Behaviour" includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining, punishing or threatening.

"Risk to health and safety" includes risk to the mental or physical health of the employee.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour could be considered to be workplace bullying:

- physical or verbal abuse;
- intimidation;
- yelling, screaming or offensive language;
- excluding or isolating employees;
- psychological harassment;
- assigning meaningless tasks unrelated to the job;
- giving employees impossible jobs;
- deliberately changed work rosters to inconvenience particular employees;
- Undermining work performance by deliberately withholding information vital for effective work performance.

Workplace bullying can occur between a worker and a manager or supervisor (and vica-versa), or between co-workers.

Bullying is not an acceptable part of Plan Australia work culture. It is a significant occupational health and safety issue of concern as it can cause harm to a person's health and wellbeing, both physical and psychological. Bullying may also be unlawful if it is linked to, or based on, one of the above-specified protected attributes covered by anti-discrimination legislation.

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### Reasonable Management Action

**Bullying and harassment does not include** situations where an employer raises an issue or concern with an employee in relation to legitimate and reasonable:

- Employee performance, including constructive feedback, setting performance goals, standards and deadlines;
- Inappropriate behaviour;
- Organisational change
- Disciplinary action

### Victimisation

It is unlawful for a person to subject or to threaten to subject another person to any detriment because the other person, or someone associated with the other person, has made an allegation or complaint of discrimination, harassment or bullying on the basis of a protected attribute.

***Plan Australia may amend and vary this policy from time to time.***

### Related Plan Australia Policies and Procedures

Plan Australia Discrimination, Harassment and Bullying Complaints Resolution Procedure  
Plan Australia Disciplinary Policy  
Complaints Resolution Form  
Complaints Response Form